

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

MAY 22, 2000

IN RE:

**APPLICATION OF LIGHTNETWORKS FOR A
CERTIFICATE TO PROVIDE FACILITIES-BASED
COMPETING LOCAL TELECOMMUNICATIONS
SERVICES AND INTRASTATE, INTEREXCHANGE
TELECOMMUNICATION SERVICES**

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DOCKET NO. 99-00911

**ORDER GRANTING CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY**

On February 15, 2000, this matter came before the Tennessee Regulatory Authority ("Authority") upon the Application of LightNetworks, Inc. for a Certificate to Provide Facilities-Based Competing Local Telecommunications Services and Intrastate, Interexchange Telecommunication Services ("Application"). The Application was made pursuant to Tenn. Code Ann. § 65-4-201 *et seq.*

LEGAL STANDARD FOR GRANTING CCN

The Application of LightNetworks, Inc. ("LightNetworks") was considered in light of the criteria for granting a certificate of public convenience and necessity ("CCN") as set forth in applicable statutes. Tenn. Code Ann. § 65-4-201 provides, in part:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the

construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

* * *

(c) After notice to the incumbent local exchange telephone company and other interested parties and following a hearing, the authority shall grant a certificate of convenience and necessity to a competing telecommunications service provider if after examining the evidence presented, the authority finds:

(1) The applicant has demonstrated that it will adhere to all applicable commission policies, rules and orders; and

(2) The applicant possesses sufficient managerial, financial, and technical abilities to provide the applied for services.

An authority order, including appropriate findings of fact and conclusions of law, denying or approving, with or without modification, an application for certification of a competing telecommunications service provider shall be entered no more than sixty (60) days from the filing of the application.

(d) Subsection (c) is not applicable to areas served by an incumbent local exchange telephone company with fewer than 100,000 total access lines in this state unless such company voluntarily enters into an interconnection agreement with a competing telecommunications service provider or unless such incumbent local exchange telephone company applies for a certificate to provide telecommunications services in an area outside its service area existing on June 6, 1995.

Furthermore, pursuant to Tenn. Code Ann. § 65-5-212, competing telecommunications providers are required to file with the Authority (1) a plan containing the provider's plan for purchasing goods and services from small and minority-owned telecommunications businesses; and (2) information on programs that might provide technical assistance to such businesses.

INTERVENORS

Public notice of the hearing in this matter was made by the Authority's Executive Secretary, pursuant to Tenn. Code Ann. § 65-4-204. No interested persons sought intervention prior to or during the hearing.

LIGHTNETWORKS' HEARING

The Application of LightNetworks was uncontested. At the hearing held on February 15, 2000, LightNetworks was represented by Mr. Melvin Kirby, Vice President of Planning and Regulatory Affairs. Mr. Kirby presented testimony and was subject to examination by the Authority's Directors. Upon LightNetworks' conclusion of proof in its case, the Authority granted LightNetworks' Application based upon the following findings of fact and conclusions of law:

I. APPLICANT'S QUALIFICATIONS

1. LightNetworks is a corporation organized under the laws of the State of Georgia and received its Certificate of Authority to transact business in the State of Tennessee on October 6, 1999.
2. The complete street address of LightNetworks' principal place of business is 2700 Northeast Expressway Access Road, Building B, Suite 900, Atlanta, Georgia 30345. The phone number is (404) 320-3021 and fax number is (404) 320-9736.
3. The Application and supporting documentary information existing in the record indicate that LightNetworks has the requisite technical and managerial ability to provide facilities-based interexchange telecommunications services within the State of Tennessee. Specifically, LightNetworks' senior management team possesses extensive business, technical, operational and regulatory telecommunications experience.
4. LightNetworks has the necessary capital and financial capability to provide the services it proposes to offer.
5. LightNetworks has represented that it will adhere to all applicable policies, rules and orders of the Authority.

II. PROPOSED SERVICES

1. LightNetworks intends to offer a broad variety of facilities-based and local exchange services, primarily to business customers throughout the State of Tennessee.

2. Except as may be authorized by law, LightNetworks does not intend to serve any areas currently being served by an incumbent local telephone company with fewer than 100,000 total access lines where local exchange competition is prohibited pursuant to Tenn. Code Ann. § 65-4-201(d).

III. PERMITTING COMPETITION TO SERVE THE PUBLIC CONVENIENCE AND NECESSITY

Upon a review of the Application and the record in this matter, the Authority finds that approval of LightNetworks' application would inure to the benefit of the present and future public convenience by permitting competition in the telecommunications services markets in the State and by fostering the development of an efficient technologically advanced statewide system of telecommunications services.

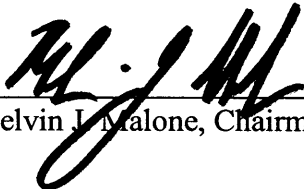
IV. SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN & BUSINESS ASSISTANCE PROGRAM

1. Pursuant to Tenn. Code Ann. § 65-5-212 and the Authority's Rules, LightNetworks has filed a satisfactory small and minority-owned telecommunications business participation plan.

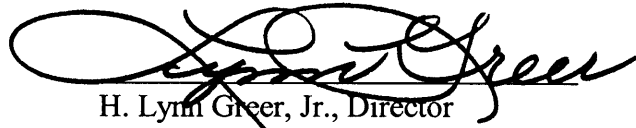
2. LightNetworks has acknowledged its obligation to contribute to the funding of the small and minority-owned telecommunications business assistance program, as set forth in Tenn. Code Ann. § 65-5-213.

IT IS THEREFORE ORDERED THAT:

1. The Application of LightNetworks, Inc. as applied for is approved;
2. Any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from and after the date of this Order; and
3. Any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.



Melvin J. Malone, Chairman

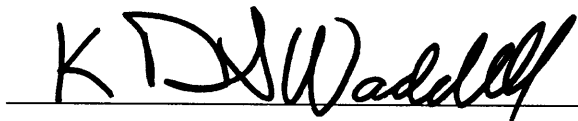


H. Lynn Greer, Jr., Director



Sara Kyle, Director

ATTEST:



K. David Waddell, Executive Secretary